

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JERRY HALL,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:06CV01820 ERW
)	(MLM)
MICHEAL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This matter is before the Court upon the Report and Recommendation of United States Magistrate Judge Mary Ann L. Medler [doc. #12]. The Court notes that no objections were filed to the Report and Recommendation within the time period afforded by 28 U.S.C. § 636(b)(1). The Court has considered the Report and Recommendation and hereby sustains, adopts and incorporates herein the Magistrate's Report and Recommendation. The Commissioner's Motion to Dismiss¹ or in the Alternative Motion for Summary Judgment is denied.

Accordingly,

IT IS HEREBY ORDERED that the Motion to Dismiss or in the Alternative Motion for Summary Judgment [doc. #10] filed by Defendant Micheal J. Astrue, Commissioner of Social Security, is **DENIED**.

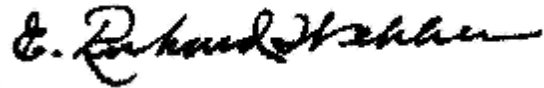
¹ The United States Supreme Court's decision in *Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955, 1974 (2007) abrogated the prior "no set of facts" standard for a motion to dismiss as set forth in *Conley v. Gibson*, 355 U.S. 41, 45-46 (1975). A complaint must be dismissed pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 127 S.Ct. at 1974. To survive a motion to dismiss, the factual allegations in the complaint "must be enough to raise a right to relief above the speculative level. *Id.* at 1965. This Court's ruling is not inconsistent with the motion to dismiss standard set forth in *Twombly*.

IT IS FURTHER ORDERED that Defendant shall serve and file an answer and the transcript of the administrative record, within **thirty (30)** days of the date of this Order.

IT IS FURTHER ORDERED that Plaintiff shall serve and file a brief, within thirty (30) days after service of Defendant's answer and the transcript of the administrative record; Defendant shall serve and file a brief, within **thirty (30)** days after service of Plaintiff's brief; and Plaintiff shall file a reply brief, within **ten (10)** days after service of Defendant's brief.

IT IS FURTHER ORDERED that no further briefs shall be filed except by leave of Court upon a showing of good cause.

Dated this 31st day of July, 2007.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE